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**State of Florida
COMMISSION ON ETHICS
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Building E, Suite 200
Tallahassee, Florida 32303**

"A Public Office is a Public Trust"

MEMORANDUM

TO: Commission Members

FROM: Gray Schafer, Senior Attorney

DATE: November 20, 2019

RE: Rule Hearing

The Commission is being asked to consider and approve two rulemaking items at the December 6 meeting. This has been duly noticed and materials have been provided to the Joint Administrative Procedures Committee.

The first matter under consideration is an amendment to Rule 34-7.010(1)(j), which a rule implementing Section 112.31425, Florida Statutes. Section 112.31425 states that if a public officer holds a beneficial interest in a blind trust, as described in the statute, he or she does not have a conflict of interest under Sections 112.313(3) or 112.313(7)(a), Florida Statutes, or a voting conflict under Section 112.3143, Florida Statutes, with regard to matters pertaining to that interest.

However, during the 2019 legislative session, Section 112.31425 was repealed. Accordingly, because there is no longer a statutory basis for Rule 34-7.010(1)(j), the amendment removes it from Rule 34-7.010. The amendment, by its effect, also removes Form 40 (Certification by Trustee of Qualified Blind Trust), which was adopted by reference in Rule 34-7.010(1)(j).

The Notice of Proposed Rule for this matter is attached, as well as Chapter 2019-60, Laws of Florida, which repealed Section 112.31425. You will be asked to approve the amendment prepared by staff at your December 6, 2019, Commission meeting.

Attachments

be permitted. This applies, for example, to a case where a customer desires underground service in overhead territory.

~~(k)1-~~ Rules covering any such portion of service which the utility furnished, owns, and maintains.

~~(1)2-~~ Rules covering inspection of customer-owned facilities by proper authorities before service is rendered.

~~(3)~~ All tariff filings shall be in the manner and form as prescribed by the Commission under separate Order entitled "Rules and Regulations Governing the Construction and Filing of Tariffs by Public Utilities."

~~(3) (4)~~ No rules and regulations, or schedules of rates or charges, or modification or revisions of the same, will ~~shall~~ be effective until filed with and approved by the Commission as provided by Law.

~~(5)~~ A copy of the rules contained herein, as promulgated and adopted by the Commission, also a copy of the rate schedules and rules and regulations of the utility as filed with the Commission, shall be kept on file in the local commercial offices of the utility for inspection by its customers. A customer shall, upon request, be furnished a copy of the rate schedule applicable to his service.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.03, 366.05(1), 366.06 FS. History—New 7-29-69, Formerly 25-6.33, Amended _____.

25-6.036 Inspection of Plant.

Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(c), (5), 366.05(1), 366.055, 366.08 FS. History—New 7-29-69, Formerly 25-6.36, Repealed _____.

25-6.037 Extent of Facilities and Equipment That a System Which Utility Must Shall Inspect, Operate, and Maintain.

~~(1)~~ Each utility must, unless specifically relieved in any case by the Commission from such obligations, shall operate and maintain in safe, efficient, and proper condition, pursuant to Rules 25-6.034, 25-6.0341, 25-6.0345, and 25-6.040, F.A.C. the standards referenced herein, all of the facilities and equipment used in connection with the production, transmission, distribution, regulation, and delivery of electricity to any customer up to the point of delivery. The utility is also responsible for the ~~safe, efficient~~ measurement of electrical consumption consistent with test procedures and accuracies prescribed by the Commission.

~~(2)~~ Each utility must adopt a program governing the inspection of its electric facilities and equipment in order to determine the necessity for replacement and repair. Each utility must keep records to establish compliance with its inspection program.

Rulemaking Authority 350.127(2), 366.04(6), 366.05(1) FS. Law Implemented 366.03, 366.04(1), (2)(c), (f), (5), (6), 366.05(1), (3) FS. History—New 7-29-69, Amended 4-13-80, _____, Formerly 25-6.37.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn Cowdery

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 84, April 30, 2019.

COMMISSION ON ETHICS

RULE NO.: 34-7.010 RULE TITLE: List of Forms and Instructions

PURPOSE AND EFFECT: The purpose of the amendment is to implement Chapter 2019-60, Laws of Florida, which repealed Section 112.31425, Florida Statutes, a statute relating to qualified blind trusts. The amendment will implement Chapter 2019-60 by removing Rule 34-7.010(1)(j), F.A.C., which was written to be used by a public officer electing to create a qualified blind trust pursuant to Section 112.31425. The amendment will, by its effect, also remove Form 40 (Certification by Trustee of Qualified Blind Trust), which was adopted by reference in Rule 34-7.010(1)(j), F.A.C.

SUMMARY: The amendment removes Rule 34-7.010(1)(j), F.A.C. and, in doing so, also removes Form 40, which is referenced therein.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based on past experience with the content in Rule 34-7.010(1)(j), the adverse impact or regulatory costs, if any, do not exceed and would not be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Art. II, Section 8, Fla. Const., 112.322(9), FS.

LAW IMPLEMENTED: Ch. 2019-60, Laws of Florida.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:



DATE AND TIME: December 6, 2019, 8:30 a.m.
 PLACE: First District Court of Appeal, Third Floor Courtroom,
 2000 Drayton Drive, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Victoria Kaiser, Executive Secretary, Florida Commission on Ethics, (850)488-7864. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Grayden Schafer, Senior Attorney, Florida Commission on Ethics, (850)488-7864

THE FULL TEXT OF THE PROPOSED RULE IS:

34-7.010 List of Forms and Instructions.

(1) The following forms and instructions are incorporated by reference and are used by the Commission in its dealings with the public:

(a) through (i) No change.

(j) ~~Form 40, Certification by Trustee of Qualified Blind Trust. To be utilized by a public officer who elects to create a qualified blind trust pursuant to Section 112.31425, F.S. <http://www.flrules.org/Gateway/reference.asp?No=Ref-03280>. Effective 11-4-13.~~

(2) No change.

Rulemaking Authority Art. II, Section 8(i), Fla. Const., ~~112.31425~~, 112.3144, 112.3145, 112.3147, 112.3215(14), 112.322(9) FS. Law Implemented Art. II, Section 8(a), (f), (h), Fla. Const., 112.313(9), (12), 112.31425, 112.3143, 112.3144, 112.3145, 112.3148, 112.31485, 112.3149, 112.3215 FS. History—New 4-11-76, Formerly 34-7.10-7.22, 8.10, Amended 2-23-77, 4-7-77, 5-17-77, 10-20-77, 2-25-79, 1-29-80, 4-29-81, 1-12-82, 3-25-82, 2-21-83, Formerly 34-7.10, Amended 7-10-88, 3-4-91, 10-6-91, 10-29-91, 12-22-91, 7-5-92, 10-15-92, 12-6-92, 11-10-93, 12-27-93, 11-21-94, 2-16-95, 12-26-95, 1-27-97, 1-1-98, 1-1-99, 1-1-00, 12-4-00, 12-21-00, 10-14-01, 11-22-01, 1-1-02, 1-1-03, 1-1-04, 1-1-05, 1-1-06, 6-15-06, 1-1-07, 1-1-10, 8-18-10, 1-1-11, 1-19-11, 11-4-13, 1-1-15, 11-24-15, 7-5-16, 1-9-17,

NAME OF PERSON ORIGINATING PROPOSED RULE: Grayden Schfer, Senior Attorney, Florida Commission on Ethics, (850)-488-7864

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: C. Christopher Anderson, III, Executive Director, Florida Commission on Ethics, (850)-488-7864

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 07, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 4, 2019

COMMISSION ON ETHICS

RULE NO.: 34-7.025
 RULE TITLE: Ethics Training Course Content

PURPOSE AND EFFECT: The purpose of the amendment is to implement Chapter 2019-163, Laws of Florida, which amended Section 112.3142, Florida Statutes, to require commissioners of community redevelopment agencies to complete four hours of ethics training each calendar year, beginning January 1, 2020. The effect of the amendment will be to include such commissioners as among those required to complete such training.

SUMMARY: The amendment adds commissioners of community redevelopment agencies to the public officers identified in the rule as having to complete the four hours of training.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based on past experience with other public officers who must complete the four hours of training required by the rule, the adverse impact or regulatory costs, if any, do not exceed and would not be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Art. II, Section 8, Fla. Const., 112.322(9) FS.

LAW IMPLEMENTED: Chapter 2019-163, Laws of Florida
 A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 6, 2019, 8:30 a.m.
 PLACE: First District Court of Appeal, Third Floor Courtroom,
 2000 Drayton Drive, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Victoria Kaiser, Executive Secretary, Florida Commission on Ethics, (850)488-7864. If you are hearing or speech impaired, please contact the agency using the Florida

CHAPTER 2019-60

Senate Bill No. 702

An act relating to qualified blind trusts; repealing s. 112.31425, F.S., relating to qualified blind trusts; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 112.31425, Florida Statutes, is repealed.

Section 2. This act shall take effect January 1, 2020.

Approved by the Governor June 4, 2019.

Filed in Office Secretary of State June 4, 2019.